

IN RE: PETITION FOR ZONING VARIANCE
NE/8 Center Street, 50' NW of
the c/l of Cedar Avenue
(221 Center Street)
12th Election District
7th Councilmanic District
Adler Realty, Inc.
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-193-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit side yard setbacks of 5 feet each in lieu of the minimum required 10 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioner, by Carl J. Chavis, President, appeared, testified, and was represented by Linwood O. Jarrell, Jr., Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 221 Center Street, consists of .0545 acres zoned D.R. 5.5 and is located within the Chesapeake Bay Critical Areas in Turners Station. Said property is also known as Lot 136 of the Balnew Homes Development, which was developed with 25-foot wide lots, and was recorded in the Land Records of Baltimore County on November 14, 1925 for the Johns Development Company, Inc. Testimony indicated the Petitioner purchased the subject property, which is currently improved with a dilapidated and uninhabitable dwelling, in May 1989. Petitioner is desirous of removing the existing dwelling, which was built on the property line, and constructing a new home comparable to those on the adjoining properties. Mr. Chavis testified that the homes on the adjoining lots were built over 30 years ago and have the same setbacks as that proposed. Petitioner testified that due to the width of the lot, the proposed dwelling cannot be constructed without the requested variances.

Petitioner testified that he has reviewed the comments of the Department of Environmental Protection and Resource Management dated September 13, 1989 and the Bureau of Water Quality comments dated August 17, 1989 and can comply with the findings set forth therein. He further testified that he has spoken with the adjoining property owners who have no objections and indicated they are anxious to have the existing dwelling removed.

After due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based

upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of December, 1989 that the Petition for Zoning Variance to permit side yard setbacks of 5 feet each in lieu of the minimum required 10 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk as such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition; and,

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated September 13, 1989, and the Bureau of Water Quality comments dated August 17, 1989, attached hereto and made a part hereof.

AMN:bjs

ANN M. NASTAKWICZ
Deputy Zoning Commissioner
for Baltimore County

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: September 13, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 47
Adler Realty Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 221 Center Street in Turners Station. The site is within the Chesapeake Bay Critical Area and is classified as an Intensely Developed Area (IDA).

APPLICANT'S NAME: Adler Realty

APPLICANT PROPOSAL

The applicant has requested a variance from section 1802.3.B of the Baltimore County Zoning Regulations to permit (2) 5 foot side yard setbacks in lieu of the minimum 10 feet.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0>

Memo to Mr. J. Robert Haines
September 13, 1989
Page 3

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above.

Upon compliance with Chesapeake Bay Critical Area Regulations and Findings, this project shall be approved. If you have any questions, please contact Mr. David Flowers at 887-3980.

Robert W. Sheesley
Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:ju
Attachment

cc: The Honorable Ronald B. Hickernell
The Honorable Norman R. Lauenstein
The Honorable Dale T. Volz

PLANT ASSOCIATION: UPLAND MOIST

NAME	RELATIVE ABUNDANCE
VEGETATIVE STRATA - SHRUBS AND SMALL TREES	
<i>Asimina triloba</i>	(Paw Paw) Abundant
<i>Amelanchier canadensis</i>	(Canadian Serviceberry) Abundant
<i>Amelanchier laevis</i>	(Serviceberry) Abundant
<i>Amelanchier obovatis</i>	(Obovate Serviceberry) Abundant
<i>Clethra alnifolia</i>	(Sweet Pepperbush) Abundant
<i>Cornus amomum</i>	(Silky Dogwood) Local
<i>Cornus florida</i>	(Flowering Dogwood) Freq. Abund.
<i>Gaylussacia frondosa</i>	(Huckleberry) Abundant
<i>Ilex opaca</i>	(American Holly) Abund.-Freq.
<i>Itea virginica</i>	(Tassel-White) Infrequent
<i>Kalmia angustifolia</i>	(Lamb-Kill) Abundant
<i>Kalmia latifolia</i>	(Mountain Laurel) Abundant
<i>Leucothoe racemosa</i>	(Fetter-Bush) Frequent
<i>Lindera benzoin</i>	(Common Spicebush) Frequent
<i>Lyonia ligustrina</i>	(Male-Berry) Frequent
<i>Myrica pensylvanica</i>	(Bayberry) Frequent
<i>Prunus serotina</i>	(Black Cherry) Abundant
<i>Prunus virginiana</i>	(Choke Cherry) Local
<i>Rhododendron nudiflorum</i>	(Pinkster Flower) Infrequent

-8-

PLANT ASSOCIATION: UPLAND MOIST (Continued)

NAME	RELATIVE ABUNDANCE
<i>Magnolia virginiana</i>	(Sweet Bay Magnolia) Frequent
<i>Nyssa sylvatica</i>	(Black Gum) Abundant
<i>Populus grandidentata</i>	(Swamp Poplar) Infrequent
<i>Populus deltoides</i>	(Cottonwood) Infrequent
<i>Quercus alba</i>	(White Oak) Abundant
<i>Quercus phellos</i>	(Willow Oak) Frequent
<i>Quercus prinus</i>	(Chestnut Oak) Abundant
<i>Quercus rubra</i>	(Red Oak) Abundant
<i>Sassafras albidum</i>	(Sassafras) Abundant

Source: Baltimore County Office of Planning and Zoning, May 1987

-10-

Chapter 4 Runoff

How rain water moves over and through the ground is important to those of us who have experienced flooded basements, wet yards, or broken septic systems. Solving the problems associated with surface water runoff and poor drainage is also important to improving the health of the Chesapeake Bay.

Rain from roofs and driveways runs off, often eroding yards and destroying plants. Much of the soil washed off vacant lots and lawns is carried into streams and eventually reaches the Bay. This sediment smothers flat and shellfish. Nutrients, such as nitrogen and phosphorus from fertilizer in runoff, can cause excessive algae growth, using up oxygen needed by the Bay's aquatic life. This runoff may also contain pesticides, oil, antifreeze, and other substances toxic to life in the Bay.

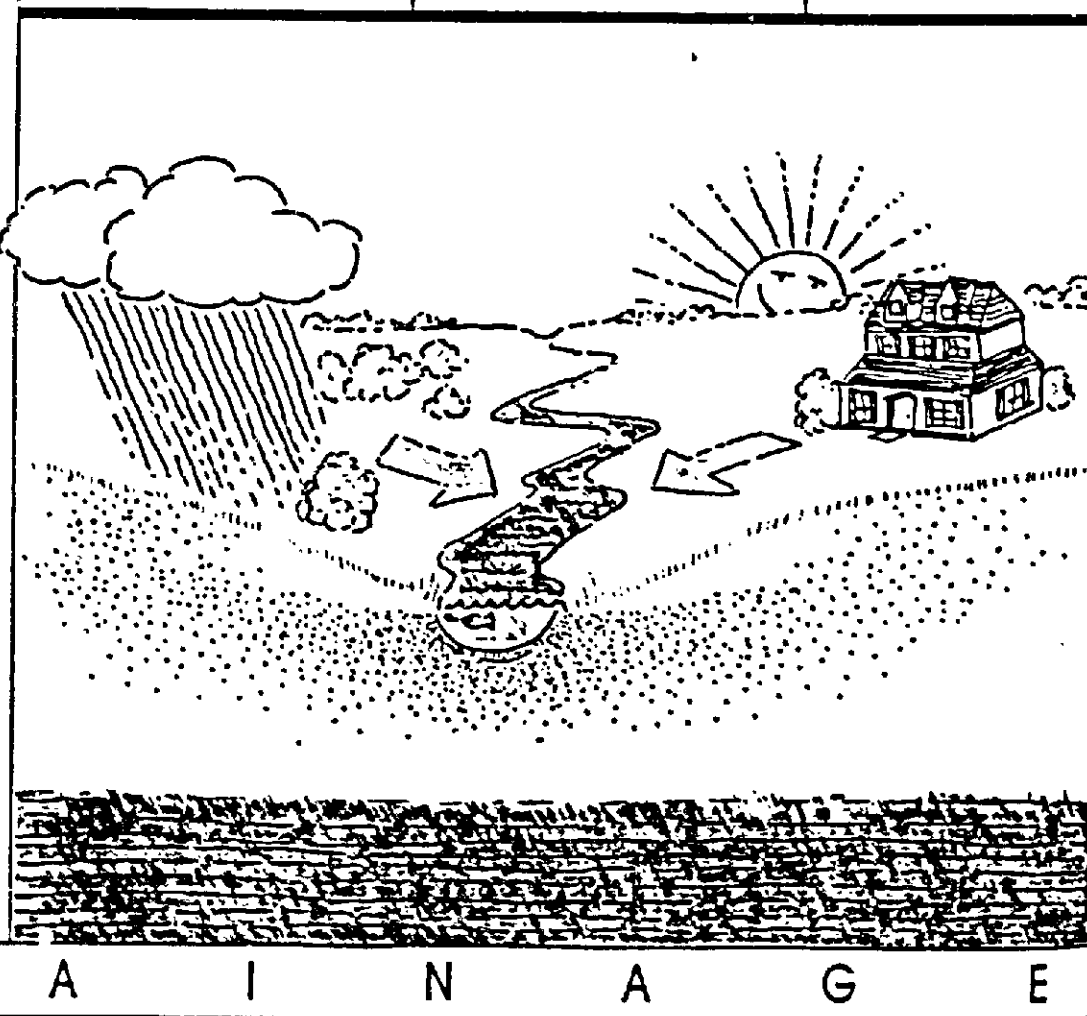
Pollution also occurs when the soil is too wet to filter sewage outflow. Effluent can percolate into the groundwater without proper filtration, or it can rise to the surface and be carried into streams and drainage ways.

downhill slope so that water does not seep through the foundation. Once the water has been carried an inch from the house, you should replace the surface so that runoff is retained gradually.

Where drainage is good or where infiltration devices are in use, you can upgrade the land to create a basin, which holds all runoff and allows it to infiltrate the soil over a longer period of time. The effectiveness of a basin depends on the soil's ability to absorb and filter the surface water. Soils with less than two feet of depth to bedrock or one foot of depth to a seasonally high water table, soil having a high clay content, or a clay hardpan beneath the surface, and low-lying soil that receives runoff from a large area may not have sufficient infiltration or storage. When you try to run runoff in these situations, the soil will rapidly become saturated, and rainfall that should filter down on its natural path.

In some instances, you may be able to correct an existing wet soil problem by creating a system of berms and swales around your yard. When it's not feasible to avoid a wet area, you may be able to move it to a less used area of the yard (around shrubs or trees, for example) by installing a swale to carry the water across the yard. Plant the new

Runoff runs downhill - some flowing through the soil, some running off into nearby streams. Encouraging runoff to move slowly across the soil so most of it filters into the ground will help prevent erosion problems.



DRAINAGE

ZONING DESCRIPTION

ALL THAT LOT OF GROUND AND PREMISES KNOWN AS LOT #136 ON A PLAT OF PART OF BALNEW DEVELOPMENT, WHICH PLAT IS KNOWN AS PLAT #1 AND IS RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIPER LMDL #8 FOLIO 29, SUBJECT, HOWEVER, TO THE AND PREVIOUSLY RECORDED FOR OTHER LOTS ON PLAT #1 OF BALNEW HOMES DEVELOPMENT.

BEING THE SAME LOT OF GROUND AND PREMISES WHICH BY DEED DATED OF EVEN DATE HEREIN AND RECORDED OR INTENDED TO BE RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IMMEDIATELY PRIOR HERETO WHICH WAS GRANTED AND CONVEYED BY JAMES E. STANSBURY AND NANCY RYAN STANSBURY, SUCCESSOR CO-PERSONAL REPRESENTATIVES OF THE ESTATE OF JAMES E. STANSBURY UNTO LAURA FRANCES STANSBURY, THE WITHIN GRANTEE.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY TOWSON, MARYLAND

District: 1224
Posted for: Variances
Petitioner: Adler Realty, Inc. - Karl J. Chavis
Location of property: NE/S of Center St. 50' NW of c/l of Cedar Avenue
221 Center Street
Location of Sign: 1224 Center Street - 10' from West side, ex.
Remarks: Adler Realty
Posted by: Adler Realty
Number of Signs: 1
Date of return: 11/1/89

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE:
(If "PHASE II" of the "SHOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.)

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Witnessed by:
J. J. Davis
Adler Realty, Inc.

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

Zoning Commissioner
Office of Planning & Zoning
County Office Building
Towson, Maryland 21204
Zoning Item # 427, Zoning Advisory Committee Meeting of August 15, 1989
Property Owner: Adler Realty, Inc.
Location: NE/S of Center St. 50' NW of c/l of Cedar Avenue
Water Supply: not known Sewage Disposal: not known
COMMENTS ARE AS FOLLOWS:

- Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- A permit to construct from the Bureau of Air Quality Management is required for any charcoal-broiler generation which has a total cooking surface area of five (5) square feet or more.
- Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other amusements pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 687-6500 x 315.
- Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations for more complete information, contact the Division of Maternal and Child Health.
- If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- Prior to raising of existing structure(s), petitioner must contact the Division of Waste Management at 887-3735, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3735.
- Soil percolation tests, have been conducted, must be conducted.
() The results are valid until
() Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
() shall be valid until
() is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3980.
- In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.
- Others

E. A. Fitch
BUREAU OF WATER QUALITY AND RESOURCE MANAGEMENT

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-193-A
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.1 to 1802.1(2) 5 ft. side
YARD SETBACKS AND LINES OF THE MINIMUM 10 FT.

- Existing House is not liveable.
- Paying taxes with no return, on investment
- It is a eyesore to the neighbor hood.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Karl J. Chavis
(Type or Print Name)
3229 Erdman Ave. Balto. Md 21213
Signature: Karl J. Chavis
Address: Baltimore, Md. 21213
City and State: Baltimore, Md.

Legal Owner(s): Adler Realty, Inc.
(Type or Print Name)
3229 Erdman Ave. Balto. Md 21213
Signature: Karl J. Chavis
Address: Baltimore, Md. 21213
City and State: Baltimore, Md.

Attorney for Petitioner: James E. Jarrell, Jr.
(Type or Print Name)
3229 Erdman Ave. Balto. Md 21213
Signature: James E. Jarrell, Jr.
Address: Baltimore, Md. 21213
City and State: Baltimore, Md.

Attorney's Telephone No. 301-254-8877

ORDERED By The Zoning Commissioner of Baltimore County, this 27 day of Sept, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 27 day of Nov, 1989, at 9:30 o'clock A.M.

ADVERTISED LENGTH OF HEARING 1/2 HRS.
AVAILABLE FOR HEARING 1/2 HRS.
ALL MON./TUES./WED. - EVEN AND EVENINGS
REVIEWED BY: FMK DATE 8/15/89

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

Karl J. Chavis
3229 Erdman Avenue
Baltimore, Maryland 21213

Re: Petition for Zoning Variance
CASE NUMBER: 90-193-A
NE/S of Center Street, 50' NW of c/l of Cedar Avenue
221 Center Street
12th Election District - 7th Councilmanic
Legal Owner(s): Adler Realty, Inc.
Contract Purchaser(s): Karl J. Chavis
HEARING: MONDAY, NOVEMBER 27, 1989 at 9:30 a.m.

Dear Mr. Chavis:

Please be advised that \$116.28 is due for advertising and posting of the above captioned property.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R0016150
Number: 426

8 B CDS*****116276a 227a

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 8/15/89 AMOUNT: \$ 35.00

RECEIVED: Karl J. Chavis & Company
FROM: 321 Center Street
Baltimore, Md. 21204
FOR: Revised Variance (Item # 47)

B 8051*****35001a 303AF

Tracking System

Baltimore County
Zoning Commissioner
Office of Planning & Zoning

Date: 11/1/89 Receipt FEE: 4

Day Month Year Number TYPE Identification Number

03 08 89 06 03 57 01 01 - 61 57 13 21 22

Petitioner: Chavis Karl J.
(Last) (First) (Middle Initial)

Property Address: 221 Center Street
(Number) (Street)

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, has set a public hearing on the property identified herein in Room 106 of the County Office Building in Towson, Maryland, on the following date and time:

HEARING: MONDAY, NOVEMBER 27, 1989 at 9:30 a.m.

Location: 221 Center Street, 50' NW of c/l of Cedar Avenue, 12th Election District - 7th Councilmanic

Legal Owner(s): Adler Realty, Inc.

Contract Purchaser(s): Karl J. Chavis

HEARING: MONDAY, NOVEMBER 27, 1989 at 9:30 a.m.

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 2, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 2, 1989.

THE JEFFERSONIAN,

S. Z. Ke Olson
Publisher

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hrgs. - Case 90-193-A - P.O. #0018438 - Reg. #M34276 - 88 lines was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one successive week before the 3rd day of November 1989; that is to say, the same was inserted in the issues of Nov. 2, 1989

Kimbei Publication, Inc.

per Publisher.

By: K. E. Olson
